

Inner City Press

July 14, 2023

By ECF

Hon. Lewis A. Kaplan, United States District Judge
Southern District of New York, 500 Pearl Street, New York, NY 10007

Re: Press Application to unseal list filed on July 13, 2023 in US v. Bankman-Fried, et al., 22-cr-673 (LAK) and/or to intervene, if deemed necessary

Dear Judge Kaplan:

Inner City Press has been covering the above captioned criminal case and on the evening of July 13, 2023 saw the defense's submission of a list entirely under seal, apparently a list of people whom defendant seeks to exempt from the conditions that "(1) a security guard must be present at the house to screen the visitors for any electronic devices, and (2) the visitors must sign the electronic visitor log."

The reason for the conditions is that (1) unlike other crypto-fraud defendants, Bankman-Fried is free on bond, in which he has (2) already violated restrictions, for example not to use VPNs.

The request clearly seeks this Court's approval - thus, it is a judicial document for purposes of the applicable caselaw. As with Bankman-Fried's suretors, the defense makes vague claim about privacy and even safety. This Court requested those arguments as to the suretors, and the defense never appealed as it had implied it would.

These people - even the number is not disclosed - would unlike the suretors be in a position to assist the defendant in further violations of the restrictions. They can be seen entering the house. It is no burden to sign the log; the burden on them of the security guard is unclear. Their main interest seems in wanting to not be named. But this is a judicial document and should be unsealed.

Again, this defendant seeks to be treated and is being treated different than other defendants in this District. In the SDNY Magistrates' Court, for example, this type of information is routinely made public. As a reporter who covers the Magistrate Court frequently, including judges publicly inquiring into the identities of those with whom a defendant can be in contact without supervision, this defendant's

Inner City Press: In-house SDNY: Room 480, 500 Pearl Street, NY NY 10007
E-mail: Matthew.Lee@innercitypress.com - Tel: 718-716-3540
Regular Mail: Dag Hammarskjold Center, Box 20047, New York, NY 10017

request, asserting that the US Attorney's Office agrees -- whether to the people on the list, or sealing it, is not clear -- is problematic.

"Representatives of the press must be given an opportunity to be heard on the question of their exclusion from a court proceeding, and we have recognized a similar right of news media to intervene in this Court to seek unsealing of documents filed in a court proceeding." *Trump v. Deutsche Bank AG*, 940 F.2d 146, 150 (2d Cir. 2019).

"The common law right of public access to judicial documents is firmly rooted in our nation's history." *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119 (2d Cir. 2006).

These are judicial documents, see e.g. this Court's decision in *United States v. Gatto*, No. 17-cr-686 (LAK), 2019 WL 4194569, at *3 (S.D.N.Y. Sept. 3, 2019)

This is an application for this court to grant or if necessary schedule a hearing on this challenge to the proposed withholding of this information, as SDNY Judges Hellerstein, Castel, Furman and others have done. See, e.g., <https://storage.courtlistener.com/recap/gov.uscourts.nysd.516151/gov.uscourts.nysd.516151.85.0.pdf> and *US v. Weigand*, 20-cr-188 (JSR), see Dkt. No. 250.

As with the previous and successful opposition to the attempted sealing of this defendant's suretors, this application by letter filed on ECF.

If appropriate, PLEASE TAKE NOTICE that Inner City Press and its undersigned reporter, in personal capacity, will move this Court before Honorable Lewis A. Kaplan, U.S. District Judge for the Southern District of New York, at a date and time directed by the Court, for entry of an order granting permission to be heard on sealing or unsealing of the list submitted on July 13, 2023 and other information in *US v. Bankman-Fried, et al.*, 22-cr-673 (LAK).

Thank you.

Respectfully submitted,

/s/

Matthew Russell Lee
Inner City Press

cc: counsel via ECF